



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

GOFFSTOWN EDUCATIONAL SUPPORT :
STAFF ASSOCIATION and GOFFSTOWN :
EDUCATION ASSOCIATION/NEA-NH :

Complainant :

v. :

GOFFSTOWN SCHOOL DISTRICT :

Respondent :

CASE NO. M-0577:6
T-0228:8

DECISION NO. 92-61

APPEARANCES

Representing Goffstown Support Staff & Education Assoc.:

Marc Benson, UniServ Director

Representing Goffstown School District:

Jeanine Poole, Esq., Counsel

Also appearing:

Owen P. Conway, Superintendent
Jeannine Laroche
Catherine Richard
Leila Lavigne
David Rouillard
Julie Caroll
Rose L. Colby
Anne Marie Kalinski
Leon J. Cote

BACKGROUND

On October 11, 1991, the Goffstown Educational Support Staff Association (GESSA) and the Goffstown Education Association (GEA) filed a Modification Petition seeking to change nurse positions in the GESSA unit to the GEA "professional bargaining unit." The Goffstown School District (District) filed an Exception to Petition

to Modify Bargaining Unit on October 28, 1991. This matter was then set for hearing and heard by the PELRB on January 30, 1992. Post-hearing filings were made by the GESSA/GEA on March 10, 1992, and by the District on March 11, 1992.

The Modification Petition alleges that the instructional and educational functions of the nurse position have "increased significantly" in recent years and that Appeal of Bow School District, 134 N.H. 64 (1991), had affirmed the reasonableness of the PELRB placing nurses in a professional bargaining unit." The District claims this change would result in "an insufficient community of interest" because "teachers and nurses do not show similar terms or conditions of employment," "staff and educational requirements vary," "nurses do not have the same degree of contact with either students or parents as do the teachers," and "circumstances have not change sufficiently to justify modification in the composition of the bargaining units."

FINDINGS OF FACT

1. The Goffstown Educational Support Staff Association, NEA/NH is the duly certified bargaining agent of support personnel in the positions of regular full-time and regular part-time secretaries, school lunch workers, nurses, custodians and aides, excluding Director of Food Services, Head of Custodians, Health Specialist and those employees excluded pursuant to the provisions of RSA 273-A:1 IX (Case No. M-0577, September 18, 1985).
2. The Goffstown Education Association, NEA/NH, is the duly certified bargaining agent for all "full-time teachers, including physical education teachers, reading teachers, librarians and those full-time teachers also designated assistant principals and/or department heads, but excluding the music staff, nurses, guidance and administrative personnel in accordance with Article I, Recognition, 1973-76 Master Agreement. This bargaining unit existed prior to enactment of RSA 273-A; therefore, it was "grandfathered" in 1975. That process excluded "nurses" (Case No. T-0228, December 7, 1976). The bargaining unit as defined in the 1989-92 CBA between the District and GEA includes: "all full-time teachers, including full-time physical education teachers, full-time librarians, full-time music teachers and full-time guidance counselors, full-time Certified Educational Health Specialists who perform classroom teaching duties on a regular basis, and those teachers designated department heads, but

excluding nurses, principals and assistant principals, guidance director, all administrative personnel and all other employees....of the District."

3. The Goffstown School District is a public employer as defined by RSA 273-A:1 XI and is the employer of employees in the GESSA and GEA bargaining units.
4. The collective bargaining agreement (CBA) between the District and GEA expires August 31, 1992. The CBA between the District and the GESSA expires June 30, 1993. GEA representatives are willing to wait until the expiration of their next CBA before negotiating benefits for nurses if this petition is granted.
5. RSA 200:29 provides that public employers, such as the District, may appoint a school nurse. That nurse "shall be a registered professional nurse currently licensed in New Hampshire." (See also Code of Administrative Rules, ED 511:16) There are six such nurses involved in the pending petition, four (4) full-time and two (2) part-time.
6. Supervision of the nursing positions at issue is by building principals, not by Department Directors who supervise all other employees of the GESSA unit.
7. Nurses are the only employees of the GESSA unit who are members of the New Hampshire Retirement System on the same basis as teachers covered by the GEA unit, notwithstanding the fact nurses are compensated differently (hourly) than teachers (annually).
8. Nurse positions under consideration in this petition are not "regularly assigned" to teaching duties; however, they do have regular, routine and daily contact with students, parents and teachers.
9. Both nurses and teachers are required to maintain student records (albeit of a different nature), to consult with parents, to counsel and educate students (New Hampshire Department of Education, "School Health Services Manuals" pp. 23 and 63), and to evaluate students, whether educationally or medically; however, nurses issue no "grades" to students, are not required to attend faculty meetings, do not do extra duties, such as lunch duty or recess, and do not plan general curriculum.

10. Job responsibilities for nurses may involve assessing special needs students, providing individual health education and/or rendering on-site aide, counseling students and parents, deal with special and/or ongoing health care needs (e.g. diabetic cases, administering medication), and/or referral of medical problems to appropriate specialists for additional attention. While nurses do not spend the majority of their time in a classroom education environment, this is also true for other positions in the GEA bargaining unit, e.g., guidance, therapists, and librarians.
11. Minutes of the GESSA Executive Board meeting held May 23, 1992 show unanimous support of an effort by nurses to seek inclusion in the GEA bargaining unit. Minutes of the GEA Executive Board Representative Council meeting held September 12, 1991 show majority approval of a motion to admit nurses into the GEA bargaining unit. The constitution of the GEA provides that the "legislative and policy adopting body of the Association shall be the Representative Council, and said Council shall be empowered to enact rules, regulations, policies and activities pursuant to the other provisions of these By-Laws."
12. Nurses subject to the petition must be certified as registered nurses but are not and need not be certified as teachers. In March of 1989, the New Hampshire Board of Nursing advised the New Hampshire School Nurses Association that it had voted to support the 1983 ANA Standards of School Nursing Practice as guidelines for school nursing activities in New Hampshire. Item V of those standards provides that "health education is an essential part of a school nurse's role...Every interaction can be utilized as a teaching, learning and counseling situation...in working with students, families, groups, schools and the community."

DECISION AND ORDER

Given the skills and training required of school nurses as evidenced by our findings, above, and the Supreme Court decision in Appeal of Bow School District, above, we conclude that the school nurses, both full and part time, more appropriately now belong in the teachers or "professional" bargaining unit rather than the support staff unit. Our findings suggest that school nurses have the requisite "community of interest 'in working conditions such that it is reasonable for employees to negotiate jointly.'" Appeal

of University System of N.H., 120 N.H. 853, 855 (1980) Considerations such as the inclusion of Educational Health Specialists in the teachers' unit (Appeal of Bow School District., slip op., p.5), supervision by principals rather than by directors, licensing/certification requirements (although different than those applying to teachers), routine contact with students, teachers and parents, the adoption of ANA standards applying to school nursing duties, retirement system participation, and the less-than-full-time educational duties of school nurses along with other bargaining unit positions (librarians, therapists and guidance personnel) outweigh differences such as hourly computation of compensation, variations in benefits, no issuance of grades, and no obligation to attend faculty meetings or to plan the general curriculum. Given the vote of the GEA Representative Council, we conclude there is also a self-felt community of interest between the nurses and the positions in the GEA bargaining unit. We find our action here to be consistent with our action in Nashua Teachers Union, Local 1044 (Decision No. 90-21, March 21, 1990) where we found school nurses to "have more of a community of interest with teachers than with a support group."

School nurses, full and part-time, are hereby placed in the GEA bargaining unit and are removed from the GESSA bargaining unit. The compensation and benefits will remain unchanged until changes therein are negotiated as part of, the negotiations for the next GEA contract, i.e., for the next GEA contract being negotiated for the period beginning September 1, 1993, after the expiration of the current CBA extension on August 31, 1992.

So ordered.

Signed this 2nd day of April, 1992.



JACK BUCKLEY
Alternate Chairman

By unanimous vote. Chairman Jack Buckley presiding. Member Seymour Osman and Richard E. Molan, present and voting.